



Case	2018 State Wage Case: Declaration and Orders under s 100 of the <i>Fair Work Act 1994</i>
Case Number	1925/2018
Date	5 September 2018
Representation	SA Government – Mr T Kidman with Mr P McMillan SA Unions – Mr S Blewett with Mr A Story

FULL BENCH

The Honourable President Justice Dolphin

His Honour Deputy President Judge Hannon

Her Honour Deputy President Judge Kelly

At the request of, and with the consent of, the parties the Full Bench of the South Australian Employment Tribunal make the following declaration and orders:

DECLARATION AND ORDERS

- A. The South Australian Employment Tribunal (SAET) declares pursuant to s 100 of the *Fair Work Act 1994* (the Act) that it adopts with modifications the decision of the Minimum Wage Panel of the Fair Work Commission in the *Annual Wage Review 2017-18 [2018] FWCFB 3500*, in the form set out hereunder.
- B. SAET makes this Declaration pursuant to s 100(3)(c) of the Act on the basis that it applies to specified awards. The awards are set out in Schedule A, appended hereto.
- C. This Declaration will come into force on the first pay period to commence on or after 1 July 2018 and remain in force until further order of SAET.
- D. The Registrar will settle the variations to each of the awards in Schedule A in accordance with s 98 of the Act.

ORDERS

1. **THAT** existing adult Award wages are to be increased by 3.5% provided that where any such rate, once increased, is less than the State Minimum Award Wage, as varied in accordance with paragraph 6 below, such rate will be varied to reflect this rate (\$732.30 per week).
2. **THAT** proportionate adjustments are to apply to juniors, trainees and other employees as set out in the relevant Award, subject to the result being no less favourable than the relevant rates in the *Declaration of the Minimum Standard for Remuneration*.



3. **THAT** in the case of piecework or session rates, the increase consequent upon this order shall be calculated in accordance with the provisions of the relevant Award, or where the award is silent on the method of adjustment, such rates will be increased by 3.5%.

4. **THAT** the following terms be included in each Award:

"The rates of pay in this Award include the safety net adjustment payable under the 2018 State Wage Case and Minimum Standard for Remuneration. This safety net adjustment may be offset against any equivalent amount in rates of pay received by employees whose wages and conditions of employment are regulated by this Award which are above the wage rates prescribed in the Award. Such above Award payments include wages payable pursuant to enterprise agreements, currently operating enterprise flexibility agreements, award variations to give effect to enterprise agreements and over award arrangements. Absorption which is contrary to the terms of an agreement is not required.

Increases made under the existing or previous State Wage Case principles, previous General Reviews of Award Wages and the 2018 State Wage Case and Minimum Standard for Remuneration excepting those resulting from enterprise agreements or Award variations to give effect to enterprise agreements, are not to be used to offset safety net adjustments."

5. **THAT** where an award has not received all increases under previous State Wage Cases or General Award Wages Review decisions, and no phase-in arrangements for such increases are contained in the Award, the particular increases outstanding will be recorded in an additional paragraph as follows:

"The rates of pay in this Award do not include adjustments payable under the following decisions: (list decisions)".

6. **THAT** the State Minimum Award Wage be increased to \$732.30 per week.
7. **THAT** the minimum amount payable under the supported wage provisions in those Awards that contain the supported wage provisions model clause be increased to \$86.90 per week.
8. **THAT** in those Awards that have had work related allowances adjusted in accordance with *2017 State Wage Case and Minimum Standard for Remuneration* [2017] SAET 66, work related allowances will be increased by 3.5%.
9. **THAT** the following terms be included in each Award:

"Any employer or group of employers bound by an Award may apply to, temporarily or otherwise, reduce, postpone and/or phase-in the application of any increase in labour costs flowing from the 2018 State Wage Case and Minimum Standard for Remuneration on the grounds of serious economic adversity. The merit of such application will be determined in the light of the particular circumstances of each case and the impact on employment at the enterprise level of the increase in labour costs is a significant factor to be taken into account in assessing the merit of any application. A party may make such an application under s 31A of the *South Australian Employment Tribunal Act 2014* (the SAET Act) in the form approved under rule 34 of the *South Australian Employment Tribunal Rules 2017*.



It will then be a matter for the President to decide whether it should be dealt with by a Full Bench of SAET.

Any decision to temporarily postpone or reduce an increase will be subject to a further review, the date of which will be determined by SAET at the time it decides any application under this provision.

An individual employer making an application pursuant to this provision may make a request under s 55(2) of the SAET Act that the hearing of the matter be conducted in private and/or that some or all of the evidentiary material produced in the case not be available for inspection. Any such request will be determined by SAET in the circumstances of each case."

10. **THAT** the Awards in Schedule A be varied from the first pay period commencing on or after 1 July 2018. Liberty is granted to apply for a different operative date in an Award where phased-in increases apply, based upon its particular circumstances.
11. **THAT** the Registrar will settle the variations to each of the Awards in accordance with s 98 of the Act. Where there is a dispute as to the import of the variation order in a particular Award the Registrar may refer the Award(s) concerned to a Member of SAET for determination.



SCHEDULE A

NAME OF AWARD
Aboriginal Education Workers (DECS) Award (PS)
Adelaide Cemeteries Authority Officers Award (LG and PS)
Adelaide City Corporation Award (LG)
Caretakers and Cleaners Award (LG)
Cemetery Employees (SA Authorities) Award (LG)
Central Linen Employees Award (PS)
Chauffeurs (Ministerial) Public Service Award (PS)
Clothing Trades Award
Early Childhood Workers Award (PS)
Firefighting Industry Employees (South Australian Metropolitan Fire Service) Award 2007 (PS)
Government Stores Employees Interim Award (PS)
Health Recreation and Fitness Award (LG)
Hotels - Adelaide Entertainments Corporation and Staff employed under the Parliament (Joint Services) Act 1985 Award (PS)
Intellectual Disability Services Award (PS)
Live Theatre and Concert (Adelaide Festival Centre Trust) Award (PS)
Local Government Cafes, Restaurants and Snack Bars Award (LG)
Local Government Employees Award (LG)
Local Government (Health Services) Award (LG)
Medical Scientists (South Australian Public Sector) Award (PS)
Municipal Employees (Adelaide City Council) Award, 2012 (LG)
Nurses (South Australian Local Government Sector) Award (LG)
Nurses (South Australian Public Sector) Award 2002 (PS)
Part-Time Interpreters or Translators (Public Service) (SA) Award (PS)
Performing Arts Centre (Adelaide Festival Centre Trust) Award (PS)
Personal Assistants to Members of the Parliament of South Australia 1989 (PS)
Police Officers Award (PS)



NAME OF AWARD
Pre-School (Kindergarten) Teaching Staff Award (PS)
ReturnToWork SA Award 2015 (PS)
SA Ambulance Service Award (PS)
SA Public Sector and Local Government Entities Clerks Award (PS & LG)
SA Public Sector Cafes and Restaurants Adelaide Convention Centre Award (PS)
SA Public Sector Clerks Adelaide Entertainments Corporation Award (PS)
S.A. Public Sector Live Performance Award (PS)
S.A. Public Sector Plumbers and Gasfitters Award (PS)
S.A. Public Sector Salaried Employees Interim Award (PS)
School Services Officers (Government Schools) Award (PS)
South Australian Government Building Trades Award (PS)
South Australian Government Civil Construction And Maintenance Award (PS)
South Australian Government Departments and Instrumentalities (Metal Trades) Award 2007 (PS)
South Australian Government Health Etc. Ancillary Employees Award (PS)
South Australian Government Printing Interim Award (PS)
South Australian Government Services Award (PS)
South Australian Government Transport Workers Award 1994 (PS)
South Australian Medical Officers Award (PS)
South Australian Municipal Salaried Officers Award (LG)
TAFE (Educational Staff) Interim Award (PS)
Teachers (DECS) Award (PS)